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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/731,976	12/10/2003	Steven Jerome Caruso		6451

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EXAMINER

TILL, TERRENCE R

ART UNIT PAPER NUMBER

1744

DATE MAILED: 10/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/731,976	Applicant(s) CARUSO, STEVEN JEROME	
	Examiner Terrence R. Till	Art Unit 1744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 22-37 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 37 is/are allowed.
- 6) ☒ Claim(s) 22-29 and 31-35 is/are rejected.
- 7) ☒ Claim(s) 30 and 36 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 December 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>10/22/04</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the air turbine and reduction drive, the feathers and lambs wool duster, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

2. The disclosure is objected to because of the following informalities: The status of application 09/963,154 needs to be updated on the first page and page 12, line 9. The application is abandoned.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 22-24, 26, 29 and 35 are rejected under 35 U.S.C. 102(b) as being anticipated by Minerly (US 2,671,926- cited in IDS).

5. The patent to Minerly discloses a hand held device for dusting surfaces, the device comprising an axially elongated housing 10-12 having a first end (free end of 10), a second end (end of 12 connected to hose 13), and a center section 11; an air turbine drive 23-27 associated with said housing; a generally cylindrical rotating duster 15 having a first end (adjacent 23), an axially spaced second end 18', and an axis of rotation, said first end being coupled to said drive; and a conduit 10, parallel to the duster, extending from said first end of said housing to said second end of said duster, wherein said conduit has an inlet and an outlet and said housing defines a handgrip.

6. Claims 22-25, 27 and 29 are rejected under 35 U.S.C. 102(b) as being anticipated by Mitchell (US 2,205,599- cited in IDS).

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7. The patent to Mitchell discloses a hand held device for dusting surfaces, the device comprising an axially elongated housing 9,11,33 having a first end (free end of 33), a second end (end of 21), and a center section 11; an electric motor drive 9 associated with said housing; a generally cylindrical rotating duster 31 having a first end (adjacent 32), an axially spaced second end (adjacent 36), and an axis of rotation, said first end being coupled to said drive; and a conduit 33, parallel to the duster, extending from said first end of said housing to said second end of said duster, wherein said conduit has an inlet and an outlet and said housing defines a handgrip (at 9) with a drive control 99.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

10. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any

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evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

11. Claims 28 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mitchell (US 2,205,599- cited in IDS) in view of Kalman et al. (US 2001/0054214-cited in IDS).

12. The patent to Mitchell discloses the claimed invention except that the cylindrical dusting element is directly driven by the motor instead of a reduction drive arrangement, actively coupling said drive motor to said duster. The patent to Kalman et al. shows that a reduction drive arrangement, actively coupling said drive motor to said duster is an equivalent structure known in the art. Therefore, because these two drive arrangements were art-recognized equivalents at the time the invention was made, one of ordinary skill in the art would have found it obvious to substitute the direct drive arrangement of Mitchell for a reduction drive arrangement, actively coupling said drive motor to said duster in view of the teaching of Kalman et al. in order to generate more torque at slower speeds to the duster.

13. Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mitchell (US 2,205,599- cited in IDS) in view of Lu (US 4,445,245).

14. The patent to Mitchell discloses the claimed invention except that the electric motor is Alternating Current (AC) powered instead of battery powered. The patent to Lu shows a battery powered cleaning device with a battery compartment 50 is an equivalent structure known in the art. Therefore, because these two methods of powering an electric motor were art-recognized equivalents at the time the invention was made, one of ordinary skill in the art would have found

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it obvious to substitute the AC driven motor arrangement of Mitchell for a battery powered driven motor arrangement, and thus, providing a battery compartment, in view of the teaching of Lu in order to eliminate the complexity of a rectifier circuit and additionally, to make the device more portable.

15. Claims 32-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mitchell (US 2,205,599- cited in IDS).

16. The patent to Mitchell discloses the claimed invention except for the duster comprising highly flexible nylon fibers, feathers, or lambs wool. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the duster material to be highly flexible nylon fibers, feathers, or lambs wool., since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious engineering choice. In re Leshin, 125 USPQ 416.

Allowable Subject Matter

17. Claims 30 and 36 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

18. Claim 37 is allowed.

19. The following is an examiner's statement of reasons for allowance: With respect to claim 37, the prior art does not disclose nor render obvious the claimed combination of subject matter, particularly a generally planar surface extending from said housing and in frictional contact with said duster and a vacuum port in said generally planar surface.

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Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion


20. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Cosentino, Lex, Wegner, Farrell and Greene all disclose hand held dusters having one or more features of the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Terrence R. Till whose telephone number is (571) 272-1280. The examiner can normally be reached on Mon. through Thurs. and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gladys P. Corcoran can be reached on (571) 272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Terrence R. Till
Primary Examiner
Art Unit 1744

trt